

University of Michigan Law School
University of Michigan Law School Scholarship Repository

Res Gestae

Law School History and Publications

2005

Vol. 55, No. 15, Preview Weekend 2005

University of Michigan Law School

Follow this and additional works at: http://repository.law.umich.edu/res_gestae



Part of the [Legal Education Commons](#)

Recommended Citation

University of Michigan Law School, "Vol. 55, No. 15, Preview Weekend 2005" (2005). *Res Gestae*. Paper 119.
http://repository.law.umich.edu/res_gestae/119

This Article is brought to you for free and open access by the Law School History and Publications at University of Michigan Law School Scholarship Repository. It has been accepted for inclusion in Res Gestae by an authorized administrator of University of Michigan Law School Scholarship Repository. For more information, please contact mlaw.repository@umich.edu.

Res Gestae

STUDENT NEWSPAPER OF THE UNIVERSITY OF MICHIGAN LAW SCHOOL

Preview Weekend '05  Since 1950 

Vol. 55 No. 15

'Term of Arts' Transforms Hutchins Basement into Student Art Gallery

By Liz Seger

The law school community witnessed the transformation of the gloomy Hutchins Hall basement, dubbed by architect Renzo Piano a "kingdom of darkness," into an art gallery and performance space Saturday night. Students, faculty and guests were serenaded with Schubert and d'Orso while they enjoyed an eclectic offering of hors d'oeuvres and took in a collection of artworks of surprising quality and scope.

The show, entitled, Term of Arts, or 'ToA' for short, featured original works by 26 law students, in media ranging from oil and acrylic, to paper collage, pottery, and crochet. The brainchild of Jay Surdukowski and Collin Foulds and the work of over thirty volunteers, ToA was pulled together over less than two months and with only \$500, contributed by LSSS and Dean Charlotte Johnson. "It was on a shoestring budget," said

Surdukowski, "and most of that went to frames."

Organizers were pleasantly surprised by the level of interest in the show. Over the course of a couple of hours, over 400 people made their way through the

The ToA show is one component of what is shaping up to be a humanities renaissance at the law school – among other goings-on, literary magazine 'Dicta' is currently being resurrected, and a plea was made recently in these pages for the musicians among us to find each other and get organized.



1L Adam Dubinsky makes himself a work of art.

How do busy law students find the time for creative expression? Several of the contributing artists note in the catalog that their pieces were made in undergrad art classes or at some point before law school took over their lives. Stephanie Douglas, creator of the striking image of a Ukrainian Pysanky egg amidst a field of ordinary eggs, said, "Someday, I hope to pick up a camera again and find new beauty out there."

narrow brick hallways to view and discuss the 56 works on display. The press of bodies in the snack-bar-hallway-cum-reception-area prompted one student to remark to a friend, "It's like a Great White concert in here!"

1L Adam Dubinsky submitted three compact, wry etchings he made while studying Russian in St. Petersburg in 2003. He said he's had trouble finding

Continued on Page 18



Res Gestae

Editor-in-Chief:
Mike Murphy

Executive Editor:
Matt Nolan

Managing Editor:
Steven Boender

Contributing Editors:
Megan Barnard, Adam
Blumenkrantz, Diana Geseking,
Anne Gordon, Shari Katz,
Karen Lockman, Mandy Legal,
Bayrex Marti, Eunice Rho,
Beverly Schneider, Liz Seger,
Kim Thompson

Res Gestae is published biweekly during the school year by students of the University of Michigan Law School. *Opinions expressed in bylined articles are those of the authors and do not necessarily represent the opinions of the editorial staff.* Articles with contact information in italics at the end of the article or "submitted by" in the byline are opinion pieces, not factual news stories, and the opinions contained therein are not necessarily reflective of the opinions of the editorial staff. Articles may be reprinted without permission, provided that the author and *Res Gestae* are credited and notified. *Res Gestae* welcomes submissions. Submissions may be made via email (preferably as an MS Word attachment). *Res Gestae* reserves the right to edit all submissions in the interest of space.

Mailing address:

Res Gestae
University of Michigan Law School
625 South State St.
Ann Arbor, MI 48109
Phone: (734) 936-2574

Web Site Address:

[http://www.law.umich.edu/
JournalsandOrgs/rg/](http://www.law.umich.edu/JournalsandOrgs/rg/)

Office:

116 Legal Research

rg@umich.edu

NALSA Wins Best Brief

By Braden McCurrach

The Native American Law Students' Association (NALSA) sent two teams to the 13th Annual National Native American Law Students Association's Moot Court Competition, this February, which was held at UCLA. Brian McClatchey (3L) and Paul Porter (1L SS) formed one team, while Trent Crable (2L) and Gussie Lord (2L) formed the other. They competed against over thirty teams from nearly twenty law schools, including Yale, Columbia, and UCLA.

The problem involved whether or not California's campaign contribution and lobbying laws could be applied to Native American tribes. The issues and facts very closely followed those of two California cases currently on appeal before the California Supreme Court: *Agua Caliente Band of Cahuilla Indians v. Superior Court*, 116 Cal. App. 4th 545 (2004); *Fair Political Practices Com. v. Santa Rosa Indian Community*, 123 Cal. App. 4th 672 (2004).

The McClatchey and Porter team, representing the State of California, won the competition's "Best Brief" award. It was the second time in the last three years that the University of Michigan has brought home the "Best Brief" award. Their brief will be published in a forthcoming edition of the *American Indian Law Review* (at the University of Oklahoma).

NALSA Chair Trent Crable commented, "I'm very pleased with our continued success. We don't have a dedicated Indian law program here—as some other schools do—so Michigan doesn't really have a reputation as a school for those interested practicing Indian law. NALSA has been working diligently to change that reputation. We're hoping our repeated success at this national competition will show the legal community that Michigan is a place where interested students can learn Indian law and learn it well. We're doing our best to represent."



An Apology to Our Readers

By Matt Nolan

I would like to personally apologize to the student body of the University of Michigan Law School for not using my column this year to adequately discuss perhaps the most important event of the last 500 years, the Boxer Rebellion of 1900.

Blinded by my passion for Michigan Sports, politics and inciting vigorous debate despite the personal animosity it brings upon me, I neglected to bring to your attention the imperialistic domination that Europe and America brought to China in the late 1800's. Distracted by poker (real and electronic) and bowling (sober and intoxicated), I didn't explain how the Empress Dowager of China's Ch'ing Dynasty helped incite uprisings in her own nation in order to fend off outsiders.

The Boxers were poor Chinese from the Northern Shandong Province. They were actually a secret society called the Fists of Righteous Harmony, but tabbed "The Boxers" by Westerners because of their proclivity for martial arts. They believed they had magical powers, that bullets could not hurt them, and that the Ch'ing Dynasty had to go.

Rather than fending them off, The Empress encouraged the Boxers to fight against the foreigners. And it worked! It did not work in the long run for the Empress, however, as she had to go into exile temporarily. The Boxers insisted. Upon return after the Boxer Protocol of 1901 imposed by the West, the Empress was stripped (of power, you dirty dogs). The West actually improved their position in China after a force of 15,000 soldiers

Continued on Page 18

Campbell Finalists Prep for the Big Dance

By Karen Lockman

Since you've likely already lost your March Madness pool, why not take a break to watch a more heated competition?

This Thursday, Ed Kilpela and Patrick Egan will compete against Josh Deahl and Michael Pearson in the final round of this year's Campbell Moot Court Competition. This greatly anticipated argument, which has been nearly a year in the making, promises to be a truly riveting intellectual battle.

About 65 teams of two were initially involved in the competition, and 48 competed in the preliminary round last November. In February, 16 teams argued in the quarterfinals; four teams progressed to the semi-finals.

Now, after intensive research, diligent preparation and many exhausting all-nighters, the two remaining teams will battle for the winning title. The final showdown is 4:00 pm on Thursday, March 31 in 100 Hutchins Hall. Chief Judge John Walker, Jr. of the Second Circuit, Judge Timothy Dyk of the Federal Circuit, and Judge Avern Cohn of the Eastern District of Michigan will preside.

Egan and Kilpela

Both third year students, Egan and Kilpela competed last year and made it to the quarterfinals. Close since the beginning of law school, the teammates expressed a tremendous amount of respect for one another. "Patrick and I have been good friends since our first day of orientation before our 1L year," said Kilpela. "In addition, he is one of the most articulate and intelligent people I have met."

In discussing his idea of a moot court role model, Egan stated, "I would settle for being a little bit more like Ed. I think the guy is fantastic in front of a hot bench and he gets better the more that they rough him up." Relatively informal arguers, both Egan and Kilpela attempt to make the arguments as conversational as possible.

A deliberate and pensive litigator, Pearson will take no chances when it comes to the competition. "I wore the same shirt and tie for every argument except one, and that one was probably my worst of the competition. I'll be riding the hot shirt and tie into the finals – that other combo has bad karma."

The Competition

While students are likely aware of this event, most do not realize the true magnitude of the competition. Between alumnae, professors, administrators and students, nearly 500 people were involved in the competition from start to finish.

"One of the things that is great about Campbell is how it ties together generations of Michigan Law students," said Campbell Board Member, 2L Jenna Goldenberg. "It's a wonderful tradition for our law school community."

The Campbell Board, consisting of Goldenberg, Megan McCulloch, Aron Boros, Damon Lewis, Jason Lichtman and Sarah Bender-

Nash, has worked very hard since last April to formulate the problem and coordinate the event.

The problem involves a complex constitutional question regarding the admissibility of a 911 call in a domestic abuse case. It follows the Supreme Court's recent landmark decision in *Crawford v. Washington*, where the court held that the Confrontation Clause of the Sixth Amendment prohibited the admission of out-of-court testimonial statements of a declarant against a defendant in a criminal case, unless the declarant is present at trial or the defense has an opportunity to cross-

Thinking About Moot Court Next Year? Advice from the Finalists:

"You don't need to be a good speaker to do this - you need to be a good listener. If you hate speaking, you should still try it, because consistently the people who just listen to and address the judges' concerns will win, even if they don't have the best speaking style." - Josh Deahl

"Preparation is everything. The better you know the cases and your arguments, the better you will do. Combine preparation with the confidence to be yourself, and you'll be fine." - Michael Pearson

"Pick a partner that you can spend lots of time with and whose intelligence and work you can trust without question." - Ed Kilpela

"Try to take the formality out of the argument and just try to have a conversation with the judges. A number of professors have said that the best tone to set in the oral argument is a helpful tone like you are trying to help the judges write their opinion." - Patrick Egan

Deahl and Pearson

2Ls Deahl and Pearson were in section MNOP together last year. The two decided to be partners when a mutual friend turned them both down. "He's loud, I'm loud, we're both opinionated and don't always think alike," Pearson said. "It makes for a good team."

Deahl became involved with the competition in order to get the attention of his favorite professor. "When I heard Professor Primus won his moot court competition, I thought this would be a good way to get him to notice me," he said. "It's all for you, Rich."

Continued on Page 19



Meet Your 2005 LSSS Candidates

Elections for the Law School Student Senate are Wed., March 30 outside of room 100 HH. Here are statements candidates submitted to the LSSS election commissioners.

President:

Teri Champ:

This year, I have distinguished myself with active, energetic representation and Dean Croley-approved, killer foosball skills. As 1L MNOP Senator I helped organize parties and events, brainstormed with Dean Caminker, helped realize students' Facilities interests, joined the Budget Committee and am working to implement a faculty review system the students can access. As President, I will ensure the Senate represents your concerns and priorities and improves your quality of life here. Top priorities are Student group funds, better technology, more great events. Determined, fun, and gets things done. Elect an open ear and a strong voice!

President:

Teri L. Champ (1L)
Brad D. Wilson (1L)

Vice-President:

Bayrex Marti (2L)

Treasurer:

Zac Lindsey (2L)

Secretary:

Seneca A. Theno (2L)

3L Summer Starter Rep:

Pamela Grewal (2L)

3L Rep: (Vote for up to 2):

No Petitions Received

2L Rep: (Vote for up to 3):

Jeff Chang (1L)
Diana L. Geseking (1L)
Tim Harrington (1L)
Jamie Kerstetter (1L)

Bradley Wilson:

My name is Brad Wilson and I'm running for President. I've enjoyed being a Senate representative because I've played a part in the achievements we've made, and it's afforded me the opportunity to see where the School requires improvements. Addressing my constituency's concerns with deans and student organizations provided me with a foundation to make improvements as we look to the future. After speaking with students and the administration about how to improve our School, I feel, with my experience and commitment, I can move forward with the entire student body as President, while maintaining the progress we've experienced this year.

Vice-President:

Bayrex Marti:

I am running for LSSS Vice-President because I *love* Dick Cheney. Seriously, though, being VP means being in the position to monitor the work of the various committees created to deal with crucial issues, such as faculty hiring, grading policy, budget allocations, etc. It also means taking charge and getting involved in the events and struggles that distract and trouble us.

Q: Why me? A: I love this school, have served on the "Senate" for a year, been a member of two committees, and attended almost every single social event imaginable (thus making me the ideal President of Vices). Please?

2L Representative:

Jeff Chang

The function of the LSSS is to be a voice of the students. Over the past year, I have realized that the LSSS accomplishes more than most student councils. In such a productive forum, students should demand that their representative be eminently receptive, empathic, and articulate in its advocacy. You will find exactly that in me. And also I'm really, really, ridiculously good looking. Really. Okay, not really. But seriously, I am. And articu-

late too. So vote for me. Oh, and I'm cool. Seriously, I'm kidding. But seriously, vote for me.

Diana L. Geseking:

I loved serving on Senate as my section's representative this year as it gave me the experience necessary to represent our entire class and accomplish the goals I have for 2L Senator.

These include: -having the law school offer a Rape Aggression Defense course (RAD) -collaborating with SFF to raise more funds for public interest grants -developing a student-run professor review system -holding more fun activities for the law school such as trips, BBQs, and events on the quad.

If you want someone fun-loving, outspoken, and willing to confront issues facing our law school—I'm your girl.

Tim Harrington:

I want to be your 2L Senator because I love you. Seriously. My favorite part of law school isn't Shepherdizing or the Socratic method, it's Bar Night—it's you, my peers. In addition to making every night Bar Night, I will work hard to make Term of Arts an annual event, expand recycling throughout the LC, and extend the snackbar's menu and hours as it gets upgraded. As a LexisRep and member of the Central Student Judiciary for MSA, I am in touch with both LexisPoints and the greater campus community. Let me represent you in LSSS. Vote. Tim Harrington.

Jamie Kerstetter:

I am an approachable person. You will find that I am eager to hear your concerns and will do what I can to make a difference. I will take your problems seriously and will consult my trusty advisors (a Magic 8-Ball and a Jump to Conclusions Mat) when I cannot solve them on my own. Your representative should be someone who is motivated, responsible, and amicable. I believe that I possess all of these qualities and would make an excellent choice to be your representative.

Talking About Practice: Associate Dean McCormack Talks Clinics

**By Mike Murphy
and Liz Seger**

Bridget M. McCormack is the Associate Dean for Clinical Affairs. She is also a clinical professor with the Michigan Clinical Law Program teaching a criminal defense clinic, a domestic violence clinic, and a pediatric advocacy clinic. Before joining the faculty, McCormack was a Robert M. Cover Fellow at Yale Law School. McCormack earned her law degree from New York University School of Law where she was a Root-Tilden scholar, and her B.A., with honors in political science and philosophy, from Trinity College, Hartford, Connecticut. She has worked as a staff attorney with the Office of the Appellate Defender and she was a senior trial attorney with the Criminal Defense Division of the Legal Aid Society in New York City. McCormack's current clinical practice, as well as her research, focuses on women charged with crimes against their partners. She has some famous connections in and outside of MLS: her husband is Steven Croley, Michigan Law's Associate Dean for Academic Affairs, and one of her sisters is actress Mary McCormack.

RG: Why did you go to law school?

BMM: I went to law school to be a public defender, which is in fact what I was after law school. I was one of the very few people in my law school class who had a really specific idea of what I wanted to do while I was there, and spent all of law school focusing on how to best be trained for that.

RG: Where did you work as a public defender?

BMM: In New York City, for five years – three and a half years doing full-time trial work, and then a year and a half doing a combination of appeals and trials.

RG: So, how did you get here, from there?

BMM: Yeah, how did I get here from there? I left the public defender's office to take a two-year clinical teaching fellowship at Yale. And I taught in the Yale clinics for two years. At that time, I was doing it sort of on a lark. I was not someone who had made up my mind that I wanted to be a clinical professor. I

I landed. And here I still am, eight years later.

RG: Are you glad you chose Ann Arbor?

BMM: Yeah, I'm very glad I chose Ann Arbor. I love the law school, and I love my colleagues, and Ann Arbor suits me very well, what with all my children. When you're trying to raise a bunch of kids, it's a great place to do it, because I can have this great job that I can do pretty well most days, I think, and still my kids can pick me out of a lineup at the end of the week.

RG: Does your job involve hiring the clinical faculty?

BMM: Not me personally. As you know, all hiring decisions are made by the faculty as a whole, so just like the research faculty, the clinical faculty are hired on a national market. We bring in a bunch of candidates and we pick the best one. I'm just one vote among the whole faculty. But as the associate dean for clinics I'm usually on the committee that's doing the search work, and I care about it a lot, but my vote isn't any more important than anyone else's vote.

RG: What percentage of your time do you spend on the different parts of your job – teaching, working on cases, administrative stuff?

BMM: There's a different answer every day, every week, every month.... it's seasonal, and follows the academic calendar to a certain extent. I have all these different pieces to my job. There's an administrative piece that during some parts of the year feels all-encompassing, especially when it comes to hiring or promotion, and I'm heavily involved in the com-



thought it sounded kind of fun, and at the same time, Mayor Giuliani was busting the public defenders' union in New York City, and de-funding all of the public defender's offices, and it was less and less fun to work in those offices while that was happening. It seemed like the right time to try something different, and I ended up liking it a whole lot. So, at the end of my two-year fellowship I went on the teaching market, and this was where

Continued on Next Page


CONTINUED from Page 5

mittee that works on that, so that takes up a big chunk of my time during the semesters. It takes up a lot less during the summer. I'm teaching full-time in the clinic, and during the semester that translates mostly into supervising students, because while I'm teaching in the clinic, I like most of my cases to have students working on them. That doesn't always work out perfectly, because if during any given term, one of my cases isn't really appropriate for students, meaning, students wouldn't get any meaningful work out of it, I keep it myself and do the work myself. My preference is that all of them have work that's great for students so I can always have students working on them during the fourteen weeks of the semester. Then the students leave, and I still have this very busy criminal caseload. So, during the summer, I end up doing a lot more litigation on my own, which usually is quite a pleasure, frankly. I still really like it, so it's kind of nice to be able to dig into my own cases. We do have some summer students, as you well know, but not enough to cover my whole docket.

RG: What's your caseload like? How many cases do you typically have at one time?

BMM: How many is a hard question to answer. Right now, for example, in the Pediatric Advocacy clinic, which I'm now teaching in, I have a lot of little cases. Many of our clients have six cases each, because they have a public benefits matter, a landlord/tenant matter, a special education matter... so, we have one client who has seven cases, literally. And that's just one client—there are many clients that I'm working with. And then I have this separate criminal docket that I continue to carry that doesn't really fit into the pediatric advocacy initiative. I work on some of those cases with advanced clinic students in the general clinic, and some of them, with the way my teaching is working out right now, I'm just carrying on my own. I probably have another 12-15 of those, and many of those right now, probably too many, are serious habeas cases. I'm carrying a few too many of

those. I think they're not as useful for students and I've got to try and get out of some of them. Having said that, I just took one of the Guantanamo cases. I don't really take my own advice very often.

RG: Do you ever have a case where you feel that it's gotten so big or so serious that you're uncomfortable having students working on it?

BMM: Not for Michigan students. I think the students here are basically capable of doing anything. So, I've had students working on very serious cases—on murder cases. Having said that, when there's a hearing on those, I've usually done pieces of the hearing myself, which I think is not the ideal clinical model. I think ideally, the students in the clinic should have full responsibility for the cases, they should have the primary relationships with the client. I think that's the way they learn the most—when they have the most responsibility and there's the most at stake. That's why I have some pause about my habeas docket. On the other hand, the students usually find the larger cases really interesting. They're a little bit more interesting than a DUI case. A murder case with a twenty-year procedural history, much of it funky and with evidence of the government doing ugly things, there are actually some more interesting issues for students to dig into. So I think a mix for students, of working on those bigger cases and having smaller cases where they completely own them is doable. But I do have some misgivings about those bigger cases because of the role I end up playing in them. I should be supervising, not lawyering.

RG: How receptive are judges, usually, to students from Michigan representing clients?

BMM: Very receptive. The judges in the local district courts—the level of practice is not always the highest in the local district and circuit courts—and so our students, in my view, are usually delivering the highest quality legal services I see in any of the courthouses. And the judges appreciate that. For them, it makes their job a whole lot easier to have a law stu-

dent who's incredibly prepared, knows the law incredibly well, doing work in their courtroom. They're usually thrilled. I can imagine there being difficulty in the out counties, where the judges don't know us very well, but here in Washtenaw County, they know the clinical faculty and our reputation so well that problems don't arise. I've had students handle felonies quite a bit in the Washtenaw County, and the judges appreciate it.

RG: Last year Richard Primus gave a talk course selection for public interest students, and he talked about clinical law. He said that taking a clinic here was kind of like going to a really good, really expensive Chinese restaurant and ordering a burger: that you're going to get a good meal but you aren't getting the specialty of the house, that substantive courses are what this place is known for. What would you say to students who may be thinking that taking a clinic is like not getting the specialty of the house, or that it's a trade-off of their tuition?

BMM: I'm surprised to hear Professor Primus said that. I didn't know that was his view. How retro. It won't surprise you that I disagree with him, and I would guess most of colleagues disagree with him too, save very, very few of them—I could count them on one hand. And that's not because there isn't real value in the substantive law classes offered here—I'm not sure what that phrase means, because I think the clinics are all about substantive law, although perhaps less theoretical. Maybe he means the high theory classes are what we're good at, and I think that's right. We're also really good at interdisciplinary classes, international classes... I can think of about five or six niche areas where this law school is one of the very top law schools in the country. And the clinics, now, are one of those. That wasn't true fifteen years ago. This is a clinical program that has grown significantly over the past fifteen years. At that time we just didn't have the numbers of clinical faculty, the numbers of

Continued on Next Page

CONTINUED from Previous Page

offerings, and it might not have been true that this clinical program was – what's the best Chinese dish at a Chinese restaurant? The steamed whole fish? — it might have been that the clinic was spicy beef, and not the fish. I don't know, I'm not saying that's true. But right now, if you talked to colleagues at the top ten law schools, they would rank Michigan's clinical law program among the very, very top. And so, if I were a student, I wouldn't miss out on the opportunity to take it. In addition, I think taking clinic in Ann Arbor has benefits that students at some of our peer schools don't have. And the biggest of those is practicing in a small town environment means that things really happen and they happen quickly. In New York City the dockets are so congested that when I did a criminal clinic—a full year clinic—I got to argue one motion. I just never got to speak in court. And there's a reason for that – they have so many cases to process, most of them get dismissed, and they just end up going away. That doesn't happen here. Our students get assigned a criminal case at the beginning of the term, they're in there at the pre-trial two weeks later, they're arguing substantive issues, there's a jury date a few weeks later, and the prosecutor shows up with their witnesses. So, there's a great advantage of doing clinics in Ann Arbor as opposed to at some of our peer schools. On top of that, law school is long, and you have a lot of semesters to work with. You can fit in many of those excellent, substantive, high-theory classes, and all of Professor Primus' classes and still take a clinic.

RG: Say a student just doesn't have seven credits to devote to the general clinic. Which of the lower-credit clinics would you recommend to students who don't know what they want to do yet? Are some more general than others?

BMM: I think that most of the credits that we offer for fewer than seven credits are quite subject-matter-specific. I'm thinking of the criminal appellate clinic, the mediation clinic, the children's rights appellate clinic – so I don't think any of them really fit the description you're looking

for. Having said that, I don't think it matters. I don't think the subject matters at all unless you know for sure, "I want to be a child advocate." Then, you know, go to the child advocacy clinic, and make some contacts and meet some people who are going to give you a good reference in your field. If you're not that absolutely sure about what you want to do, I think

"Lighten up! Law school should be great. Chances are, your next five or ten years, or however long you're in it, are not going to be nearly as fun as law school."

any clinical experience is going to be really, really valuable. Because we're teaching the same broad set of analytical skills and practical skills. You can learn them on a termination of parental rights case, you can learn them on a landlord/tenant case, you can learn them on a criminal appeal. The set of skills that you learn from talking to a client, figuring out how exactly you're going to litigate this case, strategize around its problem, and then getting down and doing it, translates across all fields. So I don't think it matters, really.

RG: What's it like being married to another professor, in terms of balancing work and family, and in generally, what are the pluses and minuses of having the same gig?

BMM: Isn't that everybody at the law school? I still see it as all pluses. It helps in all sorts of practical ways – it's really easy for us to figure out who's picking up whom, and who's getting to which music lesson and which sports lesson, working only a hundred feet from one another. It's also, for us, frankly, with all of the stuff we do between five and ten with kids, very nice to be able to see each other for ten minutes during the day and have a cup of coffee – sometimes those are the ten minutes we have to catch up, and I appreciate that. In addition to that,

it's nice to be able to share ideas about work with the person you're married to. I can imagine people having a different preference about that, but I like being able to talk about my work with Steve.

RG: Do you work on cases together?

BMM: We do, and that's so far been great fun.

RG: How do Michigan Law students stack up against other students you've come across?

BMM: The only other law students I've had enough experience with to be able to say something about are the Yale Law students, who were excellent law students like my Michigan students are. I, frankly, prefer my Michigan students by quite a bit for one, really specific reason: most of them, if not all of them, are going to go be lawyers. They're here because they want to be lawyers, they're interested in being lawyers, they're looking forward to the practice of law. All of my students at Yale who were really smart and talented were going to be President. Just ask 'em. So I appreciate a group of students just as talented as the Yale students, but who are really interested in the practice of law. I find it really refreshing, and I like them.

RG: Your work here doesn't bring you into contact with first-year students.

BMM: No, not so much. It's one of my big regrets, because among my colleagues, it seems like everyone really loves teaching first-year students. I think it sounds like fun. They go to class, they participate, they're happy to be there or at least somewhat happy to be there, and it sounds like fun. But in the clinic suite we need you to have two semesters under your belt, under the student practice court rule, before you can practice.

RG: Where did you grow up?

BM: New Jersey. Central Jersey. The cheesy part. I had really big hair in high school. That's all true.

Continued on Next Page

**CONTINUED from Page 7**

RG: We'll have to find a picture of that.

BMM: Noooo, that won't happen.

RG: What's your family background like? What did your parents do?

BMM: Pretty normal. My parents are divorced. My mother's a clinical social worker with a private therapy practice in New Jersey. My dad ran a series of small businesses throughout his life, always hoping one of them would make it really big, but always doing just fine. He's now retired. And my brother and sister are both actors, and here I am.

RG: What was it about public defense that drew you away from the lure of the big firms?

BMM: For me, 'what drew you away' doesn't quite fit, because I never even flirted with the idea. It wasn't something I thought about for a summer... I'm not sure where the law firms are, I don't know their names... I was literally, completely removed from that whole culture. When I went to NYU, there was a pretty sizeable group of students who, like me, were removed from that whole culture, so I never even felt like a weirdo in law school. I had a subculture that was full of people like me, who spent their summers at various public interest jobs. Mine were both at criminal defense jobs because I was extremely focused. So I never had the temptation. Which isn't to say I wouldn't have liked to have made a whole lot more money: I'm not against money, and I'll take more money any day anyone wants to give me any, but just not to do the work I understood was getting done at the law firms.

To do that work, they would've had to pay me a whole lot more than they actually pay people, I mean, I dunno, times twenty or thirty. A whole, whole lot more. For me, I really wanted to like what I did every day, and feel excited about what I did every day. And I can say I loved what I did every day. Every day it was chal-

lenging, hysterical, sad, exciting, stressful, important – every day I loved going to work.

RG: Of those 'high theory' classes, beyond the obvious ones like Evidence and Jurisdiction, which ones do you think are the most useful for students who know that they want to practice?

BMM: I have two answers. One answer is, I'm not sure it matters, because I think you get such a great grounding in the larger principles in the required first-year curriculum. So I don't think which additional classes you take in that substantive, high-theory category after that matters much. So, I would say to students, take ones that you think are going to interest you enough to go to and continue doing the reading. The types of skills, like I was saying about the clinics, the skills you learn in high-theory classes are transferable across all of them. I'd say if you're interested in criminal practice, take as much crim pro and higher level criminal law classes as you can. I think everyone should take as much con law as they can, and not just your basic con law class, but some of the advanced con law offerings are worth taking no matter what you intend to do after law school.

I don't know what the rules are on how many seminars you can take, but I think to the extent you can take a seminar with a really good faculty member, even if it's not exactly something you think you're interested in, you should. The seminars that my colleagues on the research faculty, or as I like to call it, the "unclinical faculty," are teaching, they're teaching because they're really interested in the subject matter, and working hard on it. So, I think, sign up for someone you know is a really good teacher and a really good scholar in his or her field, even if it's something you might not be thinking you are interested in. Take seminars.

RG: So, where do yourself in ten or twenty years? What do you want to accomplish in the future, what do you want to do that you're not doing now?

BMM: Good question. I don't know. The greatest thing about my job is that I can develop interests and run with them, all under the umbrella of this position. I have to teach, but I love that and I don't see that changing. But I can develop new interests within that larger framework and run with them. For example, I've recently gotten interested in how the government is handling these terrorism cases, and more specifically, in the way the government is dealing with the defense bar who dares to represent people accused of terrorism. I was really captivated by the Lynne Stewart trial in New York; I could not get enough of it. So, right now I'm doing a lot of research and thinking about this question of the power the government uses with respect to the criminal defense bar at the outer edges. At first I thought I wouldn't represent any alleged terrorists myself because it seems too scary and I'd rather do some thinking and teaching and writing about it. And days later I realized that was cowardly and signed up to do one of the Guantanamo detainees.

So I get to run with this new interest, and see where it takes me. Hopefully not to prison like Lynne Stewart, but this is a great job, because I'm getting to chase that down for a little while. So, I don't know, in ten years we'll see what I'm interested in. Hopefully times will have changed and the government won't be prosecuting lawyers.

RG: What's your favorite place to eat in Ann Arbor?

BMM: I hesitate to say, because you'll think it somewhat gross of me, but Knight's Steakhouse is my favorite place to eat. You can get the best burger, and they make a real drink there.

RG: Is there anything missing from Ann Arbor that, as much as you like it here, you're annoyed you can't get here?

BMM: Nothing that bugs me in a day-to-day way, but if I could snap my fingers and improve something, I would

Rosenbaum Finds His Way to M-Law

By Anne Gordon

Mark Rosenbaum is general counsel for the American Civil Liberties Union in Los Angeles. He received a B.A. from the University of Michigan and a J.D. from Harvard Law School, where he was vice-president of the Harvard Legal Aid Bureau. He has been an attorney with the ACLU since 1974, and its legal director for the past ten years. Professor Rosenbaum has successfully argued cases related to race, gender, poverty and homelessness, education, voting rights, immigrants' rights, workers' rights, civil rights, and First Amendment issues. He has also argued three cases before the U.S. Supreme Court. Professor Rosenbaum has taught at Loyola Law School, Harvard Law School, and the University of Southern California Law Center. He has been teaching at Michigan since 1993. This year, he was also named Lawyer of the Year by California Lawyer Magazine.

RG: Tell us a bit about yourself. How did you know you wanted to study law?

MR: Well, I sort of stumbled into law – I thought I was going to be a doctor. I was actually pre-med when I was in college. But my true passion, my true love was social justice. And the law seemed to me to offer the most opportunities to be able to pursue a career where I could be faithful to those passions. I was very much a product, here at the University of Michigan, of the sixties. And I think the underlying message of the sixties was to deal with the inequities and the dishonesties of the American Dream, and the belief that individuals, collectively, could do something about it. I thought every lawyer was Clarence Darrow, or Thurgood Marshall, and I was fortunate to be able to go into to the law.

RG: What do you like about working at the ACLU?



MR: I've never worked on a case that I didn't feel devoutly about its purity of mission. That doesn't mean there aren't serious complexities in these matters, but to be able to passionately pursue matters that lead to social justice, that's a dream life. And then to be able to do that with individuals, and on behalf of individuals, who care in similar ways about dealing with what's wrong, and to be entrusted with the pain and the joy of other individuals—I don't think there's a greater life.

RG: You were part of the team that argued the Ten Commandments cases in front of the Supreme Court last week. What is that like?

MR: It's a dream – it's one of the pinnacles of a lawyer's profession, to be able to talk to the highest court in the land about those matters. There are other opportunities that I think rival that, but to be able to intellectually and emotionally discuss the issues, not at the level of a Gilbert's outline, but rather at what the core values of a constitutional democracy are – and to know that that

will result in doctrine that may affect tens of thousands of lives – that's part of the highest calling of a lawyer.

RG: What was it like working with Professor Chemerinsky?

MR: Well, he's one of the legends of our era in terms of constitutional law. I've been fortunate to work with [Professor] Erwin and Professor Tribe, and of course there's no program in the country that matches the constitutional law professors at this school – I've worked with Dean Caminker [and other Michigan professors] on cases. What I think you marvel at when you work with lawyers like that is not only the quality of their intellect, but their understanding of how Supreme Court doctrine touches and involves everyday lives, and really involves the values of the nation.

RG: You've argued in front of the Court three times. Any good stories?

MR: Well, yes. I brought my daughter and my son to my last argument, and in the midst of a fairly stern exchange with Justice Scalia, my son, who was 8 or 9 at the time, exclaimed in a voice that was pretty audible, "I don't think that man likes daddy!" So I talked to him afterwards about the difference about being at a ballgame and being in the Supreme Court.

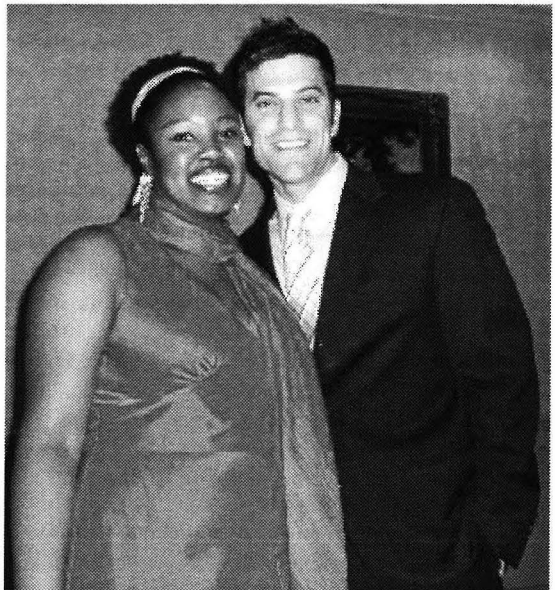
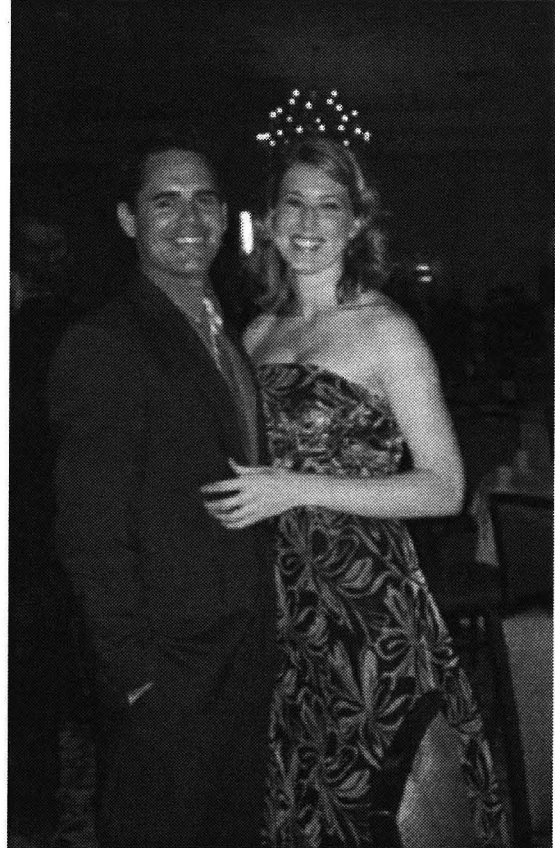
RG: What do your kids think about you associating with the likes of Supreme Court justices?

MR: I'll change your question a little bit. The most important responsibility I have in my life is my responsibility as a father. And there are a lot of dimensions to that, but it's really important that my kids see that I love my life, that I cherish the work I do, and that it's not an individual's life, but a life that you share

Continued on Page 16



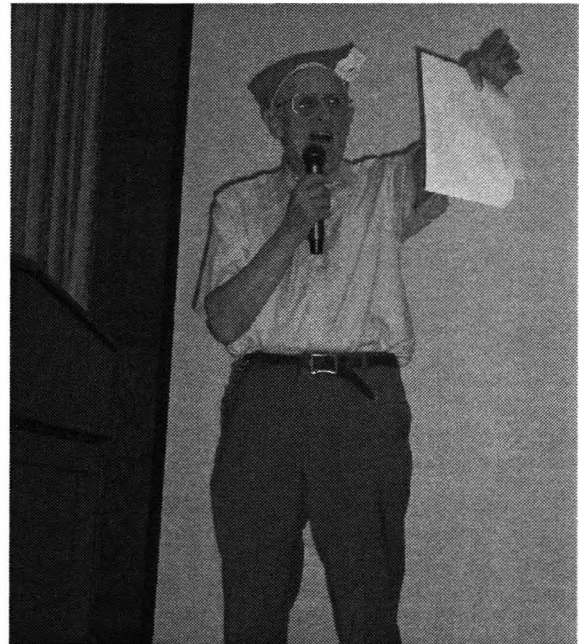
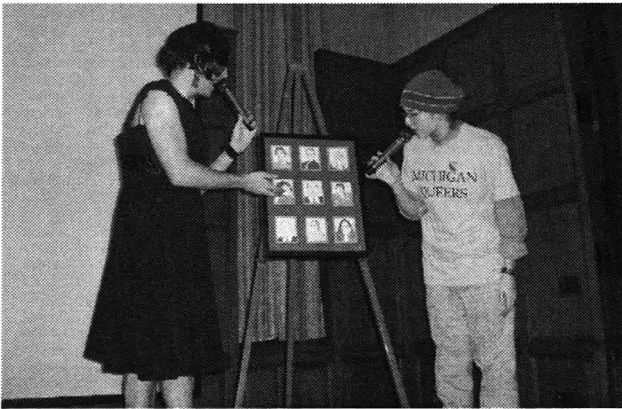
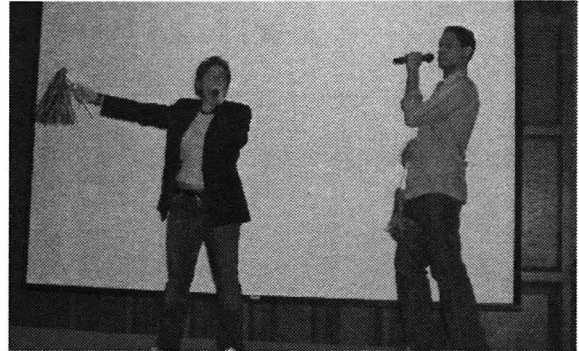
Students Cut Rugs at Butch Carpenter



Photos courtesy of BLSA



You Bid It, You Bought It: SFF 2005



Photos courtesy of Diana Geseking.



The Best You Can is Good Enough: Fall 2004 Grade Curves

Grade Summary - Part

Fall 2004

Number receiving each grade

Course/ Section	Professor	Course Name	4.3	4.0	3.7	3.3	3.0	2.7	2.3	2.0	1.7	1.3	1.0	0.0	I	P	S	Class Size
510/001.002	Cooper,Edward H	Civil Procedure	A+	A	A-	B+	B	B-	C+	C	C-	D+	D	E				97
510/003	Friedman,Richard D	Civil Procedure	2	10	12	25	22	15	9	2								94
510/004	Croley,Steven P	Civil Procedure	1	7	18	29	27	7	3	2								96
520/001.002	Soper,E Philip	Contracts	2	11	13	31	23	10	5	3	1				1			99
520/003	Pottow,John A E	Contracts		6	10	15	13	6	4									54
520/004	Radin,Margaret Jane	Contracts	2	2	7	15	13	5	3	1					1			49
530/001	Blumenthal,Susanna L	Criminal Law	1	10	15	28	21	14	3	1					1	1		96
530/002	Moran,David A	Criminal Law	3	7	15	30	26	10	5	1	2						1	100
540/001.002	Halberstam,Daniel H	Intro to Constitutional Law	6	17	29	57	51	18	12	2					1			193
560/001	Katz,Ellen D	Property		8	20	29	19	11	5	2	1							95
560/002	Krier,James E	Property	1	9	17	30	24	12	3						1			97
580/001	Whitman,Christina L B	Torts	1	4	9	13	11	5	4	1								48
580/002	Clark,Sherman J	Torts	1	5	7	13	15	3	4									48
601/001	Mendelson,Nina A	Administrative Law		10	15	31	18	17	1	1							35	128
606/001	Avi-Yonah,Reuven S	Transnational Law		9	15	27	20	3									62	136
629/001	Lutz,Karl E	Law Firms and Legal Careers		5	8	18	11	5	4	1							45	97
631/001	Regan,Donald H	Intro Con Law & Am Legal Pro	1	9	9	11												30
633/001	Kornfield,Susan M	Copyright	2	2	9	13	11	6	4	1	1						20	69
634/001	Vining,Joseph	Corporate Criminality	2	2	3	6	5	2									6	26
635/001	Beny,Laura Nyantung	Corporate Finance		5	9	15	6	1	1				1		1	11	51	
636/001	Regan,Donald H	Church and State	1	4	5	26	14	8	1						2	11	72	
652/001	Pottow,John A E	Secured Transactions		9	12	25	15	3	1		1				1	29	96	
657/001	Evans,Alicia Davis	Enterprise Organization	4	8	19	24	16	4		1					38	1	115	
657/002	Khanna,Vikramaditya S	Enterprise Organization	4	12	23	51	32	8	1						1	18	150	
660/001	Cleveland,Sarah H	Foreign Aff and the Consti'n	4	3	9	19	12	7	2				3	1	32	1	95	
665/001	Kahn,Douglas A	Estate and Gift Tax	1	2		1	1	2		1							4	13
669/001	Gross,Samuel R	Evidence		11	12	37	21	8	5	1					1	22		118
669/002	Clark,Sherman J	Evidence	3	10	18	30	19	9	4								23	116
672/001	Payton,Sallyanne	Health Law: Regulation	1	7	3	4	7	1									21	44
673/001	Cooper,Jessica R	Family Law	4	7	8	11	14	11	2		2						22	81
675/001	Kauper,Thomas E	Federal Antitrust	1	8	12	27	26	9	5		1		1		1	24		115
681/001	White,James Boyd	First Amendment		5	18	18	21	6	2									72
682/001	Parson,Edward A	Int'l Environment Law & Policy		4	4	2	4									2		16
686/001.002	Clarkson,Gavin Stuart	Federal Indian Law		8	8	2	4								8			34
689/001	Simma,Bruno Eckard	Leading Cases in Int'l Law		2	7	11	3	4								2		31
693/001	Liss,Jeffrey	Jurisdiction and Choice Of Law		8	3	7	9	4	2						1	11		52
695/001.002	Howse,Robert L	International Trade Law		5	6	9	2								14	14		65
700/001.002	West,Mark D	Japanese Law		2	8	14	18	2					1		4	11		64
708/001	Turner,Kelli S	Financial Statement Analysis	2	9	10	6	1	1			1				1	57		94
713/001	Buchsbaum,Andrew P	Fed Lit.Environment Case Study		2	3	8	4										3	21
715/001	Mendelson,Nina A	Legislation		3	5	6	5	5									13	37
722/001	Avi-Yonah,Reuven S, Schenk,Alan	Consumption Taxes	2	6	4	2									1	3		18
727/001	Eisenberg,Rebecca S	Patent Law	1	7	8	10	4	2									9	41
731/001	Niehoff,Leonard Marvin	Legal Ethics & Prof Resp	1	5	9	15	13	5	2	1							32	85
733/001	Ellsworth,Phoebe C	Psychology of Litigation	1	7	15	28	23	9	4	1					1	20		109
743/001	Pritchard,Adam C	Securities Regulation	1	3	6	11	8	3	3	1					1			37
745/001	Mackinnon,Catharine A	Sex Equality	3	8	22	45	12	1							1	21		113
747/001	Kahn,Douglas A	Taxation of Individual Income	4	9	8	6	3	4	5	2	1	1			2	53	2	103
749/001	Hasen,David Milton	Corporate Taxation	2	1	2	4	2	2									14	30
754/001	Lutz,Karl E	Business Trans Practicum I		4	14	6	1											25
755/001	Waggoner,Lawrence W	Trusts and Estates I	1	7	12	23	15	2							1	30	1	93
756/001	McCrudden,John Christopher	Comparative Hum Rgts Law		5	16	14	9	1	1								4	51
757/001	Waggoner,Lawrence W	Trusts and Estates II		2	5	1	1										1	10
783/001	Kauper,Thomas E	International Antitrust		3	1	2	2										3	11
794/001	Tonner,Grace C	Senior Judge Seminar II		16														16
796/001	Parson,Edward A	Thinking Analytically		1	5	2	1										1	13

The following classes are not

Seminars and Research classes

Clinical Classes

Classes in which no student received a regular grade (A+ through E)

Totals 66 359 577 965 711 284 110 28 11 1 6 1 47 729 6 3959

2/16/2005

Grade Summary - Part 2

Fall 2004

Course/ Section	Professor	Course Name	No. Graded	Mean Grade	Within Range?	Deviation from Grade Guidelines								C-
						A+	A	A-	B+	B	B-	C+	C	
510/001.002	Cooper,Edward H	Civil Procedure	97	3.16			-1			3				
510/003	Friedman,Richard D	Civil Procedure	94	3.25			2			-1	-2			
510/004	Croley,Steven P	Civil Procedure	95	3.22			1	-1	3	2	-5			
520/001.002	Soper,E Philip	Contracts	99	3.21										
520/003	Pottow,John A E	Contracts	54	3.24			1							
520/004	Radin,Margaret Jane	Contracts	48	3.20										
530/001	Blumenthal,Susanna L	Criminal Law	93	3.25						3	-2			
530/002	Moran,David A	Criminal Law	99	3.21										
540/001.002	Halberstam,Daniel H	Intro to Constitutional Law	192	3.24										
560/001	Katz,Ellen D	Property	95	3.22			4		-1					
560/002	Krier,James E	Property	96	3.27	high		1				-2			
580/001	Whitman,Christina L B	Torts	48	3.21			1							
580/002	Clark,Sherman J	Torts	48	3.24					1	-1				
601/001	Mendelson,Nina A	Administrative Law	93	3.25					-2	6	-4			
606/001	Avi-Yonah,Reuven S	Transnational Law	74	3.36	high	1	2	2		-3	-4			
629/001	Lutz,Karl E	Law Firms and Legal Careers	52	3.21										
631/001	Regan,Donald H	Intro Con Law & Am Legal Pro	30	3.66	high	6	4	1	-6	-2	-2			
633/001	Kornfield,Susan M	Copyright	49	3.16	1	-1	1							
634/001	Vining,Joseph	Corporate Criminality	20	3.40	high	1					-1			
635/001	Beny,Laura Nyantung	Corporate Finance	38	3.34	high	1	3	2	-2	-2	-1			
636/001	Regan,Donald H	Church and State	59	3.23			-3	6		1	-2			
652/001	Pottow,John A E	Secured Transactions	66	3.33	high	2	1	3		-2	-2			
657/001	Evans,Alicia Davis	Enterprise Organization	76	3.41	high	2	6			-2	-4			
657/002	Khanna,Vikramaditya S	Enterprise Organization	131	3.35	high		1	6		-2	-6			
660/001	Cleveland,Sarah H	Foreign Aff and the Constit'n	60	3.13		2	-1		-1		-1			
665/001	Kahn,Douglas A	Estate and Gift Tax	8	3.25	1	1	-1	-1	-1	1		1		
669/001	Gross,Samuel R	Evidence	95	3.25			1	5						
669/002	Clark,Sherman J	Evidence	93	3.32	high		2		-1		-1			
672/001	Payton,Sallyanne	Health Law: Regulation	23	3.49	high	4		-2		-1	-1			
673/001	Cooper,Jessica R	Family Law	59	3.23	2	1		-4		4	-1			
675/001	Kauper,Thomas E	Federal Antitrust	90	3.18										
681/001	White,James Boyd	First Amendment	70	3.28	high		6		1		-2			
682/001	Parson,Edward A	Int'l Environment Law & Policy	14	3.53	high	2	2	-2		-1	-1			
686/001.002	Clarkson,Gavin Stuart	Federal Indian Law	22	3.65	high	6	4	-4	-1	-2	-1			
689/001	Simma,Bruno Eckard	Leading Cases in Int'l Law	27	3.33	high	2	2	-3	1	-1				
693/001	Liss,Jeffrey	Jurisdiction and Choice Of Law	33	3.29	high	4	-1	-2						
695/001.002	Howse,Robert L	International Trade Law	22	3.54	high	3	2	2	-3	-2	-1			
700/001.002	West,Mark D	Japanese Law	45	3.20		-1		5	-2	-2	-2			
708/001	Turner,Kelli S	Financial Statement Analysis	30	3.63	high	1	6	5	-2	-5	-1	-2		
713/001	Buchsbaum,Andrew P	Fed Lit:Environment Case Study	17	3.38	high		2		2	-1	-1			
715/001	Mendelson,Nina A	Legislation	24	3.28	high		1			2	-1			
722/001	Avi-Yonah,Reuven S	Consumption Taxes	14	3.81	high	2	4	2	-4	-1	-1	-1		
727/001	Eisenberg,Rebecca S	Patent Law	32	3.51	high	3	3		-3	-1	-2			
731/001	Nieholf,Leonard Marvin	Legal Ethics & Prof Resp	51	3.26	high									
733/001	Ellsworth,Phoebe C	Psychology of Litigation	88	3.24										
743/001	Pritchard,Adam C	Securities Regulation	36	3.22										
745/001	Mackinnon,Catharine A	Sex Equality	91	3.45	high		7	14	-7	-6	-5			
747/001	Kahn,Douglas A	Taxation of Individual Income	43	3.28	high	3	4	1	-5	-6	1			
749/001	Hasen,David Milton	Corporate Taxation	13	3.43	high	2			-1		-1			
754/001	Lutz,Karl E	Business Trans Practicum I	25	3.62	high	1	10		-4	-2	-1			
755/001	Waggoner,Lawrence W	Trusts and Estates I	60	3.38	high		2	3		-3	-3			
756/001	McCrudden,John Christopher	Comparative Hum Rgts Law	46	3.42	high		8		-1	-3	-1			
757/001	Waggoner,Lawrence W	Trusts and Estates II	9	3.64	high	1	3	-1	-1	-1				
783/001	Kauper,Thomas E	International Antitrust	8	3.54	high	2				-1				
794/001	Tonner,Grace C	Senior Judge Seminar II	16	4.00	high	14	-2	-4	-3	-1	-1			
796/001	Parson,Edward A	Thinking Analytically	9	3.57	high		3		-1	-1				

Key: No. Graded - The number of students in the class receiving grades A+ through E
Mean Grade - Based on the No. Graded (rather than the Class Size)
Within range? - Based on the guidelines for Mean Grade: 3.13 minimum; 3.19 target; 3.25 maximum
Deviation from Grade Guidelines
<blank> : the number of students receiving that grade within the target range

2/16/2005

Mean Class	1st Year	Upperclass	Seminars:
Fall 2004	3.22	3.40	3.81

Targets for class mean: minimum: 3.13
target: 3.19
maximum: 3.25





Yeah, I Just Said That

By Matt Nolan

Two weeks ago Greg Lukianoff from the Foundation for Individual Rights in Education spoke to a group of Federalist Society and ACLU members about the state of free speech on campuses. He attacked campus speech codes, defended statements of students and professors who have "crossed the line," and made the general argument that we have all become a little too sensitive in becoming offended. His speech received rave reviews from the membership of both the Federalists and the ACLU, as both groups are vehemently dedicated to open debate and opposed to censorship.

Keep that in mind. Last week, the Federalist Society had just elected its new leadership for 2005-06. (Congrats and good luck to new president Laura Appleby and the rest of the team. Out of good humor for a guy who had lost the social chair election, I ceremoniously appointed Phil Maxwell as our "Sergeant-at-Arms." Everyone got the joke. Then, Phil sent the following email:

"Thank you, Matt. As my first act as Sergeant-at-Arms, I declare war against ACS. If you encounter any members, please "detain" them and bring them down to the locker area where I will tar and feather them. Next week, look forward to an invasion of the Defend Affirmative Action By Any Means Necessary and Other Bad Ideas Even If We Have No Idea What We're Talking About Group,

or DAABAMNAOBIEIWHNOWTAG. I hope to invade some of the nicer offices in the basement as well, and annex them. Perhaps a future takeover of the Snack Bar might occur.

Peace Out.

SGT. Maxwell"

If Phil's obviously tongue-in-cheek tone wasn't evident by his declaration of war and calling for "tar and feather," the signature of, "Peace Out, Sgt. Maxwell" should have sealed the deal. It didn't. Someone on the listserv got offended,

sent the message to the ACS listserv, and all hell broke loose electronically. Phil got responses informing him of his egregious violation of protocol. We even had one member, after some back and forth, request to be removed from the listserv (which based on current law school organizational norms, represents a symbolic severance of ties from the Federalists).

To have been truly offended by Phil's remarks, a person almost certainly had a preconceived notion of the Federalist Society as a bunch of angry, uber-conservative, gun-toting white males who hate minority rights, especially hate Democrats, and fear anything not professed by the savior, George W. Bush. Even slightly irrational people don't get upset at comments like this when made between friends or from someone trusted. This image is, unfortunately, as commonplace as it is misguided. There are definitely conservatives in the Federalist Society, but there are just as many libertarians. The views of the organization are not conservative by nature. The Federalists advocate a limited government with enumerated powers, not to be infringed upon by the judiciary unless expressly authorized. Belief in popular sovereignty and the rights of the people, by electing legislators, to craft national policy is probably the central theme that ties society members together - and a belief that many who aren't affiliated with the group share.

It's time to stop demonizing the Federalist Society. This year the group brought in Professor Epstein from Chicago to discuss Eminent Domain; professors Rick Sander and David Chambers to debate affirmative action in the hiring process after law school. On March 29, we've brought in two Michigan Supreme Court Justices. Each of these events had conservatives, liberals, libertarians, and those from other viewpoints in attendance. The Federalist Society seeks to bring in many viewpoints in order to see what happens when they

are confronted with each other; no particular agenda drives our events.

Please, don't take my word for it. Check out an event, listen to an argument, and give the group a fair shake. It's what we want - to debate all sides of the issues we're learning about and will confront as attorneys and citizens. Don't just go to the programs that will affirm your views and opinions on the world. Challenge us and we'll challenge you.

My second point I take from all of this is that we need, desperately, to chill the fuck out. Our culture from the law quadrangle that surrounds us to the world that surrounds it has become so afraid of offending people with our comments that we've begun sanctioning censorship of harmless speech. As Lukianoff pointed out, if you're not being offended in law school, you should ask for your money back. I have always loved being considered "on the right" at Michigan because despite my libertarian leanings and liberal views toward most social policy, I've had to defend and learn why and what I believe in. Those of you who know me know that I'm a person who will usually examine all sides and is willing to change his mind. Those of you who haven't engaged me may well think that I'm rude, uber-conservative, and an overall mean guy.

In an academic environment, sometimes feelings get hurt, but that beats having political discussions where everyone agrees all the time. This school needs more Adam Gitlins. It needs more Steve Sanderses. It needs more Ming Shuis and Joe Ashbys, more people who are not afraid to engage in open, vigorous, and intellectual debate. Through talking, our positions are either drawn deeper or re-drawn. Being offended is a necessary result of that kind of emotional growth.

Rather than being offended by Maxwell's comments, we should be

Continued on Page 19

Out of Retirement: The Eyes Have It

By Mike Murphy

I'm back: back like a hip-hop artist who raps about "being back" but never actually went anywhere to be back from. You didn't think I'd actually retired, right? I retired like Jay-Z, who's released more than one album since his retirement from rap; and Tupac, who's released many albums since his retirement from life.

But I wouldn't displace my sunburned visage from its comfy position on the inflatable Power Puff Girls chaise lounge of retirement for just anything. We have a crisis. Professors have recently noticed that students sitting within 10 feet of them in a brightly lit classroom have not made eye contact with them for an entire class period. Thus (and some would say, righteously) offended, some professors have asked students to leave their laptops in their lockers instead of bringing them to class.

This is not, as I first suspected, a conspiracy in which the faculty would have their research assistants steal our expensive possessions from our lockers while we sat in class. Though I would not put it above them for a second, and in fact, it's a pretty good idea that I wish I hadn't just written down. Rather, the ban on laptops has come from a realization that in-class personal computing can be (and perhaps is) more of a distraction to students in class than a helpful educational tool. Maybe so, but notes taken from the reading recalled to a computer screen are as powerful an in-class ally as those infernal land mines for which we dutifully sweep are in-class enemies.

Never mind the "laptop advantage" letter we all received upon admission that

required us to take out expensive loans to purchase a piece of equipment we're now increasingly being restricted from using. Or that the laptop user who surfs the internet or plays video games is committing educational hara-kiri by playing thousands of dollars to do what they could do at home for free and mostly hurting themselves. Both are valid points that I'll leave to future protesters.

The prevalence of recreational in-class laptop activity is a menacing trend that forces us as a law school community to uncover an even more insidious truth: classes in law school can be disinteresting. The source material of many of our

Paternalism begets the very childish behavior it seeks to destroy. My parents employed reverse psychology on my brother and me at levels so far advanced that Garry Kasparov would have approved: they knew we would immediately disobey their wishes since being "good" was invariably the boring choice. Put more bluntly, whenever my parents would tell my older brother Patrick "don't hit your brother" they scheduled an appointment for a meeting between my brother's elbow and my face.

Nothing my professors have done has hit me as hard as my brother's elbow – although my Crim grade knocked the wind out of me and made me cry – the same analogy between paternalism and foolishness applies in the classroom. For example, take this copy of my handwritten notes from a recent class session. Rather than tempering my inability to focus on class, ditching my laptop only allowed me further opportunities for self-distraction. I am my own worst instant messenger.

This is an embarrassingly realistic recreation of my hand-written class notes.

classes is dense, hilariously complicated and not written with performance in mind. Not that we should demand our faculty to develop superior improvisational comedy skills (though it wouldn't hurt). But even if we hired Jim Carrey to teach Con Law – and I'd re-take it just to see him teach Lawrence v. Texas – he'd still have a hard time competing with a real-time continuous update of NCAA Tournament Basketball scores. When one's computer screen shows that Duke is about to upset by a school with a strange nickname like the "Organge Slithering Eagles" and whose basketball team constitutes half its student body, no amount of Socratic fear or dynamic public speaking can hang.

Given the difficulties in keeping student attention, should we teach law differently? I know what you're thinking: old habits may die hard, but a system of teaching that can trace its origins to ancient Greece would die way harder than Bruce Willis and that guy from Family Matters.

My Property professor last year took a break from class at least once a session to allow us to discuss the material in small groups. It was a way to re-establish class attention, which during the section on future interests, disappeared about as fast as an unborn widow's divestment in fee simple absolute. Note: I have no idea if

Continued on Page 19

**ROSENBAUM, from Page 9**

with the community. And you want to pass on lots of messages to your kids, but to be able to share that with them, and to actually bring them to the Supreme Court, or I often bring them to the sites of my cases, and the people with whom I work - that's a rare opportunity. We recently announced a \$1 billion settlement for the state of California to bring books, and qualified teachers, and decent facilities to the most disadvantaged schools in the state, and I brought my daughter to the press conference with Governor Schwarzenegger to announce the settlement, and I think what impressed my daughter the most was that she got a chance to talk to him, and persuaded him to use her cell phone to wish one of her friends happy birthday.

RG: Do you have what you consider a greatest legal accomplishment?

MR: No. The greatest legal accomplishment I suppose I have is the opportunity I have every day, to work on behalf of frequently the most disadvantaged in the community, and to get to know them as friends, to share efforts together, and to work with lawyers, and social workers, and social scientists, and community activists, to achieve that. I'm very proud of the cases I've worked on, but I'm proudest of the communities I've been privileged to be a part of.

RG: What advice do you have to students who are frustrated with the "law school establishment" and want to pursue social justice careers?

MR: That they shouldn't lose their frustration, but that they should be patient, too. That the education and the opportunities that they're getting at the University of Michigan are unmatched throughout the country, and there will be time for them to do that work. What I'll really say to them is that they've worked so hard, and they've accomplished so much, and they're on the verge of a career that's going to promise the most joyful moments of their lives—and often the

most sorrowful too—but moments that they'll be able to share with others; and they shouldn't compromise that for anything. They wouldn't choose a partner or a spouse that they didn't love passionately, and I don't think they should choose a profession, or an endeavor within a profession, that they don't feel passionately about.

RG: You went to Michigan as an undergrad. How did you find your way back to teaching at the Law School?

MR: Well, the official records say I went to Michigan, but I have no memory of that. I was actually invited about 15 years ago to speak at a Martin Luther King symposium here by a couple of professors who were friends of mine, and after the presentation I was offered a position. Initially it was just the middle of a mid-life crisis, and I wanted to go back and see what it was like. I found the character of the professors and students, and community, and I had the opportunity to teach and I heeded the call.

RG: Next year you're teaching a larger number of classes – how did that come about?

MR: It was really a result of a series of conversations with Dean Caminker, who I knew and had worked with at UCLA, and Assistant Dean Croley and Mary Ann Sarosi; and I know that Dean Caminker has been concerned for some time about enlarging not just the number of course offerings, but really creating a vision of public interest law as an intellectual and principled discipline for law students. So these additional courses came out of those conversations; but I think what really came out of those conversations was a commitment to really enriching the vision here so that students who, as you said earlier, are often frustrated about the lack of opportunities will have individuals, courses, and fellow students with whom they can really dig into these sorts of experiences.

RG: Do the public interest professors rumble with the strictly academic professors in the Faculty Lounge?

MR: You know, I go into the Lounge to get juice and cookies. The back door is always closed, I hear sounds back there, but I'm never quite sure what's going on.

RG: Your 14th Amendment class is notorious for its workload. Is it realistic to work through the entire cannon in five weeks?

MR: Well, the good news is it's six weeks. [Laughs.] Is it realistic? I think it's unrealistic not to try – because I know the workload is heavy, but the students here are up to it, and most importantly, you can't really carve out this doctrine. You can't take a piece of it and say to the students, "well you got 80%, that's fine." I think my job is to expose students to the ideas and concepts of an integrated discipline, even if the doctrine itself is not 100% coherent. And it's to stimulate students to think hard about what I think are among the most difficult questions in constitutional law, and really in a constitutional democracy. And I know it's a lot of work, but I feel if I gave anything less, they would not really have the opportunity to come to their own terms with these issues.

RG: What do you like to do when you're not jetting across the country, teaching at top law schools and arguing in front of the Supreme Court?

MR: I spend a lot of time with my kids. I love to coach their basketball teams and try to apply principles of the equal protection doctrine to basketball, and most recently I've enrolled in a comedy class so I'm learning improvisational comedy. Other than that, I feel scholarly work is still to be done in the area of airline schedules.

RG: What does the word "liberty" mean in the context of the 14th Amendment?

MR: Well, that's your exam question.

Biographical information courtesy of www.law.umich.edu.



Inside the Unconstitutional Due Process of 'Desperate Housewives'

By Bayrex Marti and Eunice Rho

ohcanadia: hey, you know what we forgot to do last semester?

minibayrex: what?

ohcanadia: we forgot to acknowledge justice scalia's favorite tv show

minibayrex: does justice scalia watch TV?

ohcanadia: don't you know that desperate housewives is his fave show?

minibayrex: i didn't, but i guess that makes sense. it's either that or Room Raiders

minibayrex: how do you know it's his favorite show?

ohcanadia: omg, justice scalia is totally concerned about the plight of housewives all across america

minibayrex: yeah? how so?

minibayrex: (i just heard thunder, wtf)

ohcanadia: (how can there be snow AND thunder?)

ohcanadia: United States v. Craft, 535 U.S. 274, 289-290 (2002)

ohcanadia: "I write separately to observe that the Court nullifies (insofar as federal taxes are concerned, at least) a form of property ownership that was of particular benefit to the stay-at-home spouse or mother. She is overwhelmingly likely to be the survivor that obtains title to the unencumbered property; and she (as opposed to her business-world husband) is overwhelmingly unlikely to be the source of the individual indebtedness against which a tenancy by the entirety protects. It is regrettable that the Court has eliminated a large part of this traditional protection retained by many States."

minibayrex: so sweet!

ohcanadia: move over, Ginsburg, Scalia feels your pain

minibayrex: so what's this show about?

ohcanadia: well, according to oprah, it's about real women with real problems

minibayrex: weight gain?

minibayrex: menopause?

ohcanadia: well, the compulsive need to hit on every man in your subdivision (married or not)

minibayrex: of course

ohcanadia: being too perfect

ohcanadia: i know you can relate to that one

minibayrex: i can

minibayrex: hey, now that i think about it, i love this show too!

ohcanadia: i mean, who can't relate?

minibayrex: last week's episode was amazing.

ohcanadia: you watched it?

minibayrex: i think i did...i was still hung over, though

ohcanadia: um bayrex, the show's on at like 9pm

ohcanadia: on a sunday

minibayrex: not relevant. what is relevant is that that woman from the Radio Shack commercials is hot.

ohcanadia: wait, was she married to howie long?

minibayrex: no, to some C-list actor

ohcanadia: and since when did you start checking women out?

minibayrex: i'm assuming she's hot because she's been winning so many acting awards

minibayrex: this week's episode should also be ground-breaking. the I'M NOT A LESBIAN redhead will probably say something desperate, right?

ohcanadia: wait, isn't some woman from knots landing on this show?

minibayrex: what's that?

ohcanadia: oh right. you were born in 1992

ohcanadia: nevermind

minibayrex: eva longoria is dating jc chasez AND tony parker, which is why her character is a desperate housewife

ohcanadia: oh, i thought it was because she was hispanic

ohcanadia: or as scalia would say...

minibayrex: not Oriental...

ohcanadia: hey, are you looking at me queer?

minibayrex: speaking of which, why are all the husbands horrible to their wives on this show?

ohcanadia: oh, whoa. there are husbands?

ohcanadia: isn't some woman dating a plumber or something?

minibayrex: he's pretending to be a plumber, but in reality he's a government agent

minibayrex: i may have been wrong on that one, but logic left the Desperate Housewives building a long time ago

ohcanadia: you mean wisteria lane

minibayrex: i do

minibayrex: is wisteria a type of flower?

minibayrex: more importantly, is justice scalia okay with the subject matter of this tv show?

minibayrex: sex, cheating, murder?

minibayrex: it doesn't matter. predictions for the remainder of the season? it really doesn't matter that you have yet to watch the show.

ohcanadia: um, someone's totally gonna have an affair

ohcanadia: there will definitely be a catfight

ohcanadia: probably when they're washing cars or watering the lawn

ohcanadia: wait, is someone gay?

ohcanadia: or potentially becoming gay?

minibayrex: i predict one of the main characters will die, another will discover her gardener is gay, another will hate her kids some more, and another will be ugly

ohcanadia: one thing i do like about this show (judging from the ads) is that the men are actually good looking

ohcanadia: not like SATC

minibayrex: and that's what matters



ARTS, from Page 1

time for art in law school. "My books and syllabi are covered in doodles, and I make little pictures on my computer, but not much else," Dubinsky said. "I overextend myself by getting involved in a lot of activities, and I just don't have



enough time left over." He hopes to reclaim his creative self over the remainder of law school. "I love the physicality of print-making—carving into materials, cranking a massive roller over the plates," he added.

The Law School's new classical trio, Treble Damages, provided the music. A listener would never suspect the group, comprised of 2L Anna Baldwin on cello, 2L Anat Grosfeld on violin, and 2L Eunice Rho on piano began rehearsals only a week before the performance.



About 20 of the pieces were donated by the artists for sale at the Student Funded Fellowships auction. Matt Pryor, SFF Tri-Chair, said that students are constantly asking what they can donate to SFF, subsequently better everyone's chances of getting a grant.

"This is another great answer to that question," Pryor said. "I am constantly amazed at ways students and the administration are finding to support SFF."

Museum-quality posters of 1L Heather Freiburger's kitschy and apt "Warhol meets Brady Bunch" montage featuring portraits of several professors and Dean Caminker are available for \$5 in the LSSS office.

Whether you're an artsy type or not, Term of Arts is a great reminder that we all had lives before law school, and that our peers are interesting and talented people (aside from their legal aptitudes). Making time for the arts—creating, promoting, enjoying—probably adds some healthy perspective as we prepare to leave here for the Big Firms.

"If anything, law school has further convinced me to pay careful attention to the lifestyle I select for myself," Dubinsky said. "I don't think I'll ever let art out of my life." Kudos to everyone involved in the birth of ToA for bringing some art into ours.

**APOLOGY, from Page 2**

from the United States put down the rebellion, and along with them brought reform. The educational system opened itself to women and replaced a Confucian and Classics-centered curriculum with one focusing on Western math, science, engineering and geography.

There. Thus, I humbly apologize both to Dillon Kuehn, who brought this issue to my attention, and to the readership at large. I will attempt to not offend you (in the same manner, anyway) further, and I earnestly hope you will accept this prostration at your feet as a sign of my good will.

1L Dillon Kuehn won the "Matt Nolan Apology" at the SFF Auction, earning him a minimum 200-word apology from me for anything I did or did not write during the 2004-05 school year. Many thanks to him for his generous donation to such a great cause, and to the rest of you who dug a little deeper to make a difference as well.



**The Res Gestae
Welcomes
Preview Weekend
Students to
Michigan
Law School!**

**We hope you
enjoyed this issue.
See you next Fall?**

**Questions?
Comments?
rg@umich.edu**

CAMPBELL, from Page 3

examine an unavailable declarant. The moot court case turns on two issues: First, whether the 911 call was testimonial in nature, and second, whether the defendant forfeited his right to confrontation.

"Our faculty advisor, Professor Tom Seymour, gave us the qualities of a great moot court problem, such as balance and depth of case law," said Lewis. "Professor Friedman, being near and dear to the issue, was extremely helpful in making this problem work well."

The Campbell Board sent over 3000 letters soliciting judges. About 250 alumnae assisted in judging the preliminary round of competition, while professors predominantly judged the subsequent rounds.

"This was the first time we mailed competitors' briefs to alumnae outside of Michigan. Due to Law School rules, we sent invitations to alums with last names starting with B, C, and D," said Lewis. "It was fun sending invitations to participate to people like Lee Bollinger and Ann Coulter, and one alum that had just sent me a ding letter the week before."

Certain professors stood out as the competitors' most difficult judges. "Ironically, our toughest judges were three of the nicest professors in the school: Dean Caminker, Professor Whitman and Professor Gross," said Egan. "They brutalized us during the semi-finals."

Deahl and Pearson noted Professor Brenske as their most demanding judge. A Michigan Law alum and former appellate litigator, Brenske is a recent addition to the faculty. "Professor Brenske is the gattling gun of all judges," said Deahl. "You don't even have a chance to answer her questions- You have to learn to answer with hand signals and yelps."

Pearson agreed. "Having Brenske judge us in the quarterfinals was a great advantage for the semis. I imagine it will be for the finals as well, since the experience tested us."

**McCORMACK, from Page 8**

import some theater. You can't see theatre in Ann Arbor. Having said that, I think 80% of theatre is crap. But the 20% that's good is so very, very good, and I do miss that. That was a big part of my life, that's a big part of my family's life. I see a lot of it in New York and even L.A. where there's less of it.

RG: What do your kids think about your job?

BMM: I don't know that they get what I do, frankly. Every once in a while when they hear me say I teach, they say, "No, you don't, you work at the law school." Because they think a teacher is someone who teaches second grade; that's what they know of teachers. They like coming here, going to the faculty lounge and getting an orange soda, but other than that I don't think they care that much. They're much more compelled by my sister's job. When they see my sister on Celebrity Poker they will say, "Why don't you do what Aunt Mary does?"

RG: What would you like to say to Michigan students?

BMM: Lighten up! Law school should be great. Especially for those of you who are going to firms because you think it's what you want to do, or because you think it's what you have to do because of your debt; and I understand that's just the way it goes. Chances are, your next five or ten years, however long you're in it, are not going to be nearly as fun as law school. Law school is great. There are lots of great people, lots of great classes to take - you should really enjoy it.

Biographical information courtesy of www.law.umich.edu.

**SAID, from Page 14**

praising them (or at least ignoring them). We could all follow his example and lighten up a bit. I am thankful that I live in a nation where I can say what I want about issues, people, and government on a daily basis without fear of consequence

other than the opinion of my fellow citizens either supporting me, condemning me or being indifferent.

Jokes, even offensive ones, even those that aren't funny to everyone, should be spoken with a similar confidence in consequence. More realistically, if we enter the real world with the same oversensitivity towards sorts of comments as many of us now exhibit, we're going to have interpersonal conflicts that will make our lives and futures difficult. I say if you can't take a joke, you've got a problem. The rest of us will laugh and be better for it.

Matt Nolan is the Executive Editor of Res Gestae. E-mail Matt at mjnnolan@umich.edu.

**EYES, from Page 15**

the preceding overly lame joke is, in fact, harmonious with the Law of Property. The brain cells containing my knowledge of the Rule Against Perpetuities fell in valiant battle to a bell jar of sangria at Dominic's mere minutes after my exam last May. They now rest in the cognitive halls of Valhalla with my memories of the latter half of St. Patrick's Day 2005. And the location of my goddamn Tigers hat.

It's unfair to ask professors to compete with the World Wide Web and its ultimate secret weapon (rhymes with "hornography"). It may also be unfair to ask students to change their way of processing class information mid-semester. As a retired student emeritus, I am as set in my ways as a Sunday morning Denny's Grand Slam breakfast regular. But the tie has to go to the faculty who inhabit the law school for much longer than three years at a time. Plus I've heard the faculty might start elbow dropping surfing students who ask them to repeat questions; and dudes, profs are capable of anything. It's called "tenure."

Mike Murphy is the Editor-in-Chief of Res Gestae. He has not retired, that was a (bad) joke. E-mail Mike at murphym@umich.edu.





Michigan Law Announcements

Minority Perspectives On Judicial Clerkships

Monday, April 4,
12:15 - 1:15 p.m., 218 HH

Congratulations to
2L Cliff Davidson

Michigan Law School's
2005-2006 representative to the
Michigan Student Assembly!

Conversation About Clerking

with
The Honorable John M. Walker,
Jr. ('66)

Chief Judge, United States Court
Of Appeals For The Second Circuit

Wednesday, March 30,
2:30 - 3:30 p.m., 132 HH

The Entertainment, Media and
Arts Law Students Association
(EMALSA) Presents:

Sports Law Panel

April 8
12:15, 218 HH

with noted sports lawyers
Gordon Kirke and
Trevor Whiffen

Campbell Moot Court Finals

Thursday, 3/31 at 4:00PM, 100 HH.
Light reception outside room 100

The Office Of The Dean And The Outlaws Present:

"Don't Ask, Don't Tell" And The Solomon Amendment: Military Recruiting On Law School Campuses

Monday, April 4, 12:15 - 1:30 p.m., 150 HH
Event Contact: Marilyn Genoa, marilyng@umich.edu

Dean Evan Caminker and Outlaws are pleased to announce an informational panel on the military's "Don't Ask, Don't Tell" policy, the Solomon Amendment and JAG recruitment on law school campuses. This panel will present diverse viewpoints regarding the military's exclusion of gays, lesbians and bisexuals from military service. Additionally, the panelists will address the significance of the Solomon Amendment and recent court rulings on its constitutionality.

4th Annual Race Ipsa Loquitor 5k run/walk

Sunday, April 10th at the Arb.

Registration begins Monday, March 28th at the table outside HH 100 and continues everyday during lunch until the day of the race.

Cost is \$15/person and includes a t-shirt for the first 75 participants. Sizes will be allocated on a first-come, first-serve basis. All proceeds will benefit survivors of sexual assault or domestic violence.

Send Your
Student
Organization
Announcements to
rg@umich.edu